

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

**NANCY MARTIN and  
MARY BETH BRACKIN,** )  
Plaintiffs, )  
v. ) ) Case No. 1:05-CV-1172-MEF  
**CITY OF DOTHAN and JUDGE  
ROSE EVANS-GORDON,** )  
Defendants. )

**MOTION TO STRIKE ALL CLAIMS FOR PUNITIVE DAMAGES  
AGAINST THE CITY OF DOTHAN**

COMES NOW Defendant City of Dothan, by and through counsel, and respectfully request that the court strike all claims for punitive damages against the City. The law is clear that punitive damages are unavailable against a municipality such as the City of Dothan. *See City of Newport v. Fact Concerts, Inc.*, 453 U.S. 247, 271 (1981) (“we hold that a municipality is immune from punitive damages under 42 U.S.C. §1983”); *Walters v. City of Atlanta*, 803 F.2d 1135, 1148 (11<sup>th</sup> Cir. 1986) (punitive damages under §1982 unavailable against municipality); *Harrelson v. Elmore County of Alabama*, 859 F.Supp. 1465, 1467 (M.D. Ala. 1994) (same); *Garrett v. Clarke County Board of Education*, 857 F.Supp. 949, 952 (S.D. Ala. 1994) (punitive damages unavailable against government entity under

Title VII). As such, all claims of punitive damages against the City are due to be stricken.

WHEREFORE, Defendant City of Dothan respectfully request that this Court Order that all claims for punitive damages against it be struck.

Respectfully submitted,

/s/ Carol Sue Nelson

Carol Sue Nelson  
Audrey Dupont  
Theodore P. Bell  
Attorneys for Defendants

**OF COUNSEL:**

Maynard, Cooper & Gale, PC  
1901 Sixth Avenue North  
2400 Regions/Harbert Plaza  
Birmingham, Alabama 35203  
Phone: (205) 254-1000  
Fax: (205) 254-1999

**CERTIFICATE OF SERVICE**

I hereby certify that on February 29, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Ishmael Jaffree, Esq.  
800 Downtower Blvd.  
Suite 106B  
Mobile, Alabama

*/s/ Carol Sue Nelson*  
\_\_\_\_\_  
OF COUNSEL